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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/088,417

07/22/2002

Derek Woolfson

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22907

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05/04/2005

BANNER & WITCOFF

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EXAMINER

AUDET, MAURY A

ART UNIT

PAPER NUMBER

1654

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/088,417

**Applicant(s)**

WOOLFSON ET AL.

**Examiner**

Maury Audet

**Art Unit**

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005 and 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/18/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-34, as drawn to first and second peptide monomers consisting of SEQ ID NOS: 1 or 4, in the reply filed on 01/24/2005 is acknowledged. Applicant later filed a supplement amendment and consideration that the amended claims be searched and examined as to the generic invention therein (as still drawn to first and second peptide monomers consisting of SEQ ID NOS: 1 or 4). The Examiner has considered this request, and is willing to search and examine the generic invention, but only in so far as being drawn to the elected invention, namely a protein structure comprising "first and second peptide monomers consisting of SEQ ID NOS: 1 or 4" (the Examiner was willing to search/examine the generic language in the amended claim language to further limitations to the "first and second peptide monomers consisting of SEQ ID NOS: 1 or 4", i.e. comprising heptad repeat motifs of SEQ ID NOS: 19-21, etc.).

***Claim Rejections - 35 USC § 112 2nd***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claims 1-34, although amended in the filing of 02/17/2005, the claims have not been amended to the elected invention (i.e. "first and second peptide monomers consisting of SEQ ID NOS: 1 or 4") and the broad subject matter of the invention therefore remains unclear. It is suggested that Applicant amend the independent claims (and dependencies thereto) to elected invention.

### *Allowable Subject Matter*

Claims 1-34, as drawn to protein structures (and other products/methods) comprising first and second peptide monomers consisting of SEQ ID NOS: 1 or 4, were not found to be reasonably taught or suggested by the prior art of record. Were the independent claims amended to be limited to the elected invention, and to incorporate the language "first and second peptide monomers consisting of SEQ ID NOS: 1 or 4", and delete non-elected subject matter (for instance see claims 14-15, wherein the "first and second peptide monomers consisting of SEQ ID NOS: 2 and 3" would need to be deleted, and any other similar non-elected subject deleted in the claims), the claims would likely be in condition for allowance.

### *Conclusion*

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maury Audet whose telephone number is 571-272-0960. The examiner can normally be reached from 7:00 AM – 5:30 PM, off Fridays.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached at 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

MA, 05/01/2005



CHRISTOPHER R. TATE  
PRIMARY EXAMINER